
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 217

**The Disability Assistance for Working Age
People (Transitional Provisions and Miscellaneous
Amendment) (Scotland) Regulations 2022**

PART 3

Review of entitlement to Adult Disability Payment

Review determination without application of entitlement to Adult Disability Payment

12.—(1) The Scottish Ministers are to make a determination in respect of a transferred individual, without receiving an application, of that individual's entitlement to Adult Disability Payment within the period of 12 months beginning with the date of that individual's notice of intention to transfer.

(2) Paragraph (1) does not apply—

- (a) to transferred individuals to whom regulation 9 applies, or
- (b) where a transferred individual has requested a re-determination under section 41 of the 2018 Act, or made an appeal under section 46 of the 2018 Act, in relation to the transfer determination.

(3) Subject to regulations 15 (when an increase in level of entitlement takes effect) and 16 (when a decrease in level or cessation of entitlement takes effect), entitlement to Adult Disability Payment under a determination under paragraph (1) begins on the date specified in the notice of determination given to the transferred individual in accordance with section 40 of the 2018 Act.

(4) The determination under paragraph (1) is to be made on the basis of any information that—

- (a) the Scottish Ministers have received from the Secretary of State for Work and Pensions in respect of the transferred individual's entitlement to Disability Living Allowance,
- (b) the Scottish Ministers requested from the transferred individual, and
- (c) is available to the Scottish Ministers that appears to them to be relevant.

Commencement Information

II [Reg. 12](#) in force at 29.8.2022, see [reg. 1\(1\)](#)

Time of payment

13. Where an award of Adult Disability Payment is made under a review determination, the Scottish Ministers are to make—

- (a) the first payment of assistance on a date specified in the notice of determination, and
- (b) any subsequent payment—
 - (i) 4 weekly in arrears,

- (ii) weekly in advance, or
- (iii) where the Scottish Ministers consider that it would be unjust not to do so, at such intervals as may be specified in the notice of determination.

Commencement Information

I2 [Reg. 13](#) in force at 29.8.2022, see [reg. 1\(1\)](#)

[^{F1}Change of circumstances

14. Where the Scottish Ministers are making a review determination of an individual's entitlement to Adult Disability Payment, where the individual, before a transfer determination is made, reported a change of circumstances to the Secretary of State for Work and Pensions which had not been taken into account for the individual's entitlement to Disability Living Allowance, the change of circumstances—

- (a) is not to be regarded as relating to the individual's entitlement to Disability Living Allowance, and
- (b) is to be taken into consideration by the Scottish Minister in making the review determination.]

Textual Amendments

F1 [Reg. 14](#) substituted (20.11.2023) by [The Disability Assistance \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/346\)](#), regs. 1, [5\(5\)](#)

Commencement Information

I3 [Reg. 14](#) in force at 29.8.2022, see [reg. 1\(1\)](#)

When an increase in level of entitlement takes effect

15.—(1) Where, as a result of a review determination, the amount of Adult Disability Payment payable in respect of an individual is increased, or their entitlement to a component is awarded, the change takes effect on the date of transfer.

(2) Where an individual has previously received Adult Disability Payment for a period under a transfer determination and a review determination has subsequently been made that the same individual is entitled to Adult Disability Payment at a higher rate for that period, that individual is entitled to be paid the difference between the value of entitlement to Adult Disability Payment under the review determination and the value of Adult Disability Payment to which that individual was previously entitled under the transfer determination.

[^{F2}(3) Where paragraph (1) applies, regulation 45 of the ADP Regulations does not apply.]

Textual Amendments

F2 [Reg. 15\(3\)](#) inserted (20.11.2023) by [The Disability Assistance \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/346\)](#), regs. 1, [5\(6\)](#)

Commencement Information

I4 [Reg. 15](#) in force at 29.8.2022, see [reg. 1\(1\)](#)

[^{F3}When a decrease in level or cessation of entitlement takes effect

16.—(1) Where an individual's entitlement to Adult Disability Payment is determined in the review determination to be at a lower rate than, or the same rate as awarded by, the transfer determination, entitlement under the review determination will take effect on the day that the Scottish Ministers make the review determination.

(2) Where paragraph (1) applies, regulation 46 of the ADP Regulations does not apply.]

Textual Amendments

F3 [Reg. 16](#) substituted (20.11.2023) by [The Disability Assistance \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/346\)](#), regs. 1, [5\(7\)](#)

Commencement Information

I5 [Reg. 16](#) in force at 29.8.2022, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022, PART 3.